

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIG RIVERS ELECTRIC	)	
CORPORATION TO ASSESS A SURCHARGE	)	
UNDER KRS 278.183 TO RECOVER COSTS	)	CASE NO. 94-032
OF COMPLIANCE WITH ENVIRONMENTAL	)	
REQUIREMENTS OF THE CLEAN AIR ACT	)	

O R D E R

This matter arising upon petition of Big Rivers Electric Corporation ("Big Rivers"), filed April 5, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the market information contained in the report prepared by Al Perry and Associates on the grounds that disclosure of the information is likely to cause Big Rivers competitive injury and it appearing to this Commission as follows:

Al Perry and Associates, acting as marketing agents for Big Rivers, conducted a market study to determine the long term market for Big Rivers wholesale power. The study is contained in a report issued July 30, 1993, entitled "Wholesale Power Market Study for Big Rivers Electric Corporation." By this petition Big Rivers seeks to protect as confidential the information in the report that identifies the potential market for Big Rivers wholesale power.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of

information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

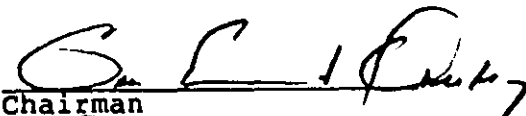
The sale of wholesale power through the intersystem power sales market is highly competitive. The study prepared by Al Perry and Associates identifies potential customers in that market and forecasts their power needs. Competitors of Big Rivers could use this information in marketing their own power to the detriment of Big Rivers. Therefore, disclosure of the information is likely to cause Big Rivers competitive injury and the information should be protected as confidential.

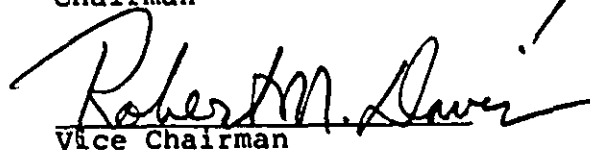
This Commission being otherwise sufficiently advised,

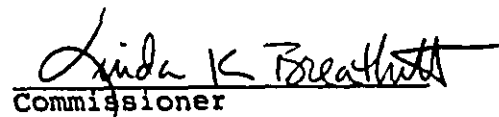
IT IS ORDERED that the wholesale market information contained in Al Perry and Associates report, which Big Rivers has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 19th day of April, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director